

State of Arizona  
House of Representatives  
Forty-eighth Legislature  
Second Regular Session  
2008

# **HOUSE BILL 2759**

AN ACT

AMENDING SECTION 41-1202, ARIZONA REVISED STATUTES; RELATING TO LEGISLATIVE VACANCIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2 Section 1. Section 41-1202, Arizona Revised Statutes, is amended to  
3 read:

4       41-1202. Vacancy in legislature: precinct committeemen:  
5                   definition

6       A. If a vacancy occurs in the legislature and the vacant seat was  
7 represented by a political party that is organized pursuant to title 16,  
8 chapter 5, article 2 ~~and that has at least thirty elected committeemen who~~  
~~are from precincts that are in the legislative district and that are in the~~  
~~county in which the vacancy occurred AND THE PERSON WHO HELD THE OFFICE~~  
10 ~~IMMEDIATELY BEFORE THE VACANCY IS A RESIDENT OF A COUNTY WITH A POPULATION OF~~  
11 ~~ONE MILLION FIVE HUNDRED THOUSAND PERSONS OR MORE~~, the following apply:

12      1. The secretary of state shall notify the state party chairman of the  
13 appropriate political party of the vacancy. Within three business days after  
14 notification of the vacancy by the secretary of state, the state party  
15 chairman of the appropriate political party or the chairman's designee shall  
16 give written notice of the meeting to fill the vacancy to all elected  
17 precinct committeemen of the appropriate political party from precincts that  
18 are in the legislative district ~~and that are in the county~~ in which the  
19 vacancy occurred.

20      2. Those elected precinct committeemen shall ~~nominate~~ ELECT, within  
21 twenty-one days after notification of the vacancy by the secretary of state  
22 if the legislature is not in regular session or within five days if the  
23 legislature is in regular session and by a majority vote, ~~three~~ A qualified  
24 ~~electors~~ ELECTOR to fill the vacancy who ~~meet~~ MEETS the requirements for  
25 service in the legislature and who ~~belong~~ BELONGS to the same political party  
26 and ~~reside~~ RESIDES at the time of ~~nomination~~ ELECTION in the same district  
27 ~~and county~~ as the person elected to or appointed to the office immediately  
28 before the vacancy.

29      3. The meeting to fill the vacancy is subject to title 38, chapter 3,  
30 article 3.1, and the state party chairman of the appropriate political party  
31 shall oversee the ~~nominations~~ ELECTION. Fifty per cent or more of the  
32 elected precinct committeemen of the district who are in the legislative  
33 district ~~and from the county~~ in which the vacancy occurred, ~~or their proxies,~~  
34 meeting together constitutes a quorum for the purposes of this  
35 subsection. ~~A precinct committeeman may choose to permit the use of a proxy~~  
36 ~~that:~~

37       (a) ~~Is given by the precinct committeeman to another elected precinct~~  
38 ~~committeeman for the legislative district in which the vacancy occurred for~~  
39 ~~use at the meeting to fill the vacancy.~~

40       (b) ~~Only is valid for the length of the meeting for which it was~~  
41 ~~given.~~

42       (c) ~~Is attested by a notary public or two witnesses.~~

1       4. ALL BALLOTS THAT ARE USED IN ELECTING A PERSON TO FILL A  
2 LEGISLATIVE VACANCY PURSUANT TO THIS SUBSECTION SHALL BE SEALED AFTER  
3 COUNTING AND PRESERVED IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF  
4 RESIDENCE OF THE VACATING LEGISLATOR FOR TWO YEARS AFTER THE LEGISLATOR WHO  
5 IS FILLING THE VACANCY TAKES OFFICE.

6       4. 5. The state party chairman of the appropriate political party  
7 shall forward the ~~names~~ NAME of the ~~three persons named~~ PERSON ELECTED  
8 pursuant to paragraph 2 of this subsection to the ~~board of supervisors of the~~  
~~county of residence of the person elected or appointed to the office~~  
~~immediately before the vacancy occurred. The board of supervisors shall~~  
10 ~~appoint a SECRETARY OF STATE. THE SECRETARY OF STATE SHALL ISSUE TO THAT~~  
11 ~~person from the three nominees submitted~~ A CERTIFICATE OF APPOINTMENT.

12       5. 6. If the elected precinct committeemen of the appropriate  
13 political party fail to fill the vacancy within twenty-one days if the  
14 legislature is not in regular session or within five days if the legislature  
15 is in regular session, as provided in **THIS** subsection **A**, the state party  
16 chairman shall notify the board of supervisors of the appropriate county and  
17 the board of supervisors shall fill the vacancy as provided in subsection **B**  
18 **C**. The time frame for appointing a citizens panel shall run from receipt of  
19 notification from the state party chairman.

20       B. IF A VACANCY OCCURS IN THE LEGISLATURE AND THE VACANT SEAT WAS  
21 REPRESENTED BY A POLITICAL PARTY THAT IS ORGANIZED PURSUANT TO TITLE 16,  
22 CHAPTER 5, ARTICLE 2 AND THAT HAS AT LEAST THIRTY ELECTED COMMITTEEMEN WHO  
23 ARE FROM PRECINCTS THAT ARE IN THE LEGISLATIVE DISTRICT AND THAT ARE IN THE  
24 COUNTY IN WHICH THE VACANCY OCCURRED AND THE PERSON WHO HELD THE OFFICE  
25 IMMEDIATELY BEFORE THE VACANCY IS A RESIDENT OF A COUNTY WITH A POPULATION OF  
26 LESS THAN ONE MILLION FIVE HUNDRED THOUSAND PERSONS, THE FOLLOWING APPLY:

27       1. THE SECRETARY OF STATE SHALL NOTIFY THE STATE PARTY CHAIRMAN OF THE  
28 APPROPRIATE POLITICAL PARTY OF THE VACANCY. WITHIN THREE BUSINESS DAYS AFTER  
29 NOTIFICATION OF THE VACANCY BY THE SECRETARY OF STATE, THE STATE PARTY  
30 CHAIRMAN OF THE APPROPRIATE POLITICAL PARTY OR THE CHAIRMAN'S DESIGNEE SHALL  
31 GIVE WRITTEN NOTICE OF THE MEETING TO FILL THE VACANCY TO ALL ELECTED  
32 PRECINCT COMMITTEEMEN OF THE APPROPRIATE POLITICAL PARTY FROM PRECINCTS THAT  
33 ARE IN THE LEGISLATIVE DISTRICT AND THAT ARE IN THE COUNTY IN WHICH THE  
34 VACANCY OCCURRED.

35       2. THOSE ELECTED PRECINCT COMMITTEEMEN SHALL NOMINATE, WITHIN  
36 TWENTY-ONE DAYS AFTER NOTIFICATION OF THE VACANCY BY THE SECRETARY OF STATE  
37 IF THE LEGISLATURE IS NOT IN REGULAR SESSION OR WITHIN FIVE DAYS IF THE  
38 LEGISLATURE IS IN REGULAR SESSION AND BY A MAJORITY VOTE, THREE QUALIFIED  
39 ELECTORS TO FILL THE VACANCY WHO MEET THE REQUIREMENTS FOR SERVICE IN THE  
40 LEGISLATURE AND WHO BELONG TO THE SAME POLITICAL PARTY AND RESIDE AT THE TIME  
41 OF NOMINATION IN THE SAME DISTRICT AND COUNTY AS THE PERSON ELECTED TO OR  
42 APPOINTED TO THE OFFICE IMMEDIATELY BEFORE THE VACANCY.

1       3. THE MEETING TO FILL THE VACANCY IS SUBJECT TO TITLE 38, CHAPTER 3,  
2 ARTICLE 3.1, AND THE STATE PARTY CHAIRMAN OF THE APPROPRIATE POLITICAL PARTY  
3 SHALL OVERSEE THE NOMINATIONS. FIFTY PER CENT OR MORE OF THE ELECTED  
4 PRECINCT COMMITTEEMEN OF THE DISTRICT WHO ARE IN THE LEGISLATIVE DISTRICT AND  
5 FROM THE COUNTY IN WHICH THE VACANCY OCCURRED MEETING TOGETHER CONSTITUTES A  
6 QUORUM FOR THE PURPOSES OF THIS SUBSECTION.

7       4. THE STATE PARTY CHAIRMAN OF THE APPROPRIATE POLITICAL PARTY SHALL  
8 FORWARD THE NAMES OF THE THREE PERSONS NAMED PURSUANT TO PARAGRAPH 2 OF THIS  
9 SUBSECTION TO THE BOARD OF SUPERVISORS OF THE COUNTY OF RESIDENCE OF THE  
10 PERSON ELECTED OR APPOINTED TO THE OFFICE IMMEDIATELY BEFORE THE VACANCY  
11 OCCURRED. THE BOARD OF SUPERVISORS SHALL APPOINT A PERSON FROM THE THREE  
12 NOMINEES SUBMITTED.

13      5. IF THE ELECTED PRECINCT COMMITTEEMEN OF THE APPROPRIATE POLITICAL  
14 PARTY FAIL TO FILL THE VACANCY WITHIN TWENTY-ONE DAYS IF THE LEGISLATURE IS  
15 NOT IN REGULAR SESSION OR WITHIN FIVE DAYS IF THE LEGISLATURE IS IN REGULAR  
16 SESSION, AS PROVIDED IN THIS SUBSECTION, THE STATE PARTY CHAIRMAN SHALL  
17 NOTIFY THE BOARD OF SUPERVISORS OF THE APPROPRIATE COUNTY AND THE BOARD OF  
18 SUPERVISORS SHALL FILL THE VACANCY AS PROVIDED IN SUBSECTION C. THE TIME  
19 FRAME FOR APPOINTING A CITIZENS PANEL SHALL RUN FROM RECEIPT OF NOTIFICATION  
20 FROM THE STATE PARTY CHAIRMAN.

21      B. C. If the vacant legislative seat was represented by a political  
22 party that is organized pursuant to title 16, chapter 5, article 2 and that  
23 has fewer than thirty elected committeemen who are from precincts that are in  
24 the legislative district and that are in the county in which the vacancy  
25 occurred or if the vacant legislative seat is not represented by a political  
26 party that is organized pursuant to title 16, chapter 5, article 2, the  
27 following apply:

28      1. The board of supervisors of the county of residence of the person  
29 elected to or appointed to the office immediately before the vacancy shall  
30 appoint within three business days after a vacancy occurs a citizens panel to  
31 submit to the board within seven business days the names of three qualified  
32 electors who are members of the appropriate political party and who are  
33 residents of the legislative district and county in which the vacancy  
34 occurred to fill the vacancy. If the person elected to or appointed to the  
35 office immediately before the vacancy was a registered independent, the  
36 qualified electors shall be registered as independent.

37      2. Within five business days after receiving the list of names  
38 submitted by the panel and by a majority vote of all of the supervisors  
39 sitting as a board, the board of supervisors shall appoint one person from  
40 the list of names submitted by the panel to fill the vacancy.

41      C. D. For the purposes of this section, "appropriate political party"  
42 means the same political party of which the person who was elected to or  
43 appointed to the office was a member immediately before the vacancy occurred.